

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2014-346-WS

IN RE:)	
)	
Application of Daufuskie Island Utility)	SETTLEMENT AGREEMENT
Company, Inc. for Approval of an)	
Adjustment for Water and Sewer Rates,)	
Terms and Conditions.)	
_____)	

This Settlement Agreement is made between and among the Applicant herein, Daufuskie Island Utility Company, Inc. (“DIUC”); the South Carolina Office of Regulatory Staff (“ORS”); and Haig Point Club and Community Association, Inc. (“HPCCA”), Melrose Property Owner’s Association, Inc. (“MPOA”), and Bloody Point Property Owner’s Association (“BPPOA”) (collectively the “POAs” or “Intervenors”) (all hereinafter collectively referred to as the “Parties” or sometimes individually as a “Party”).

On June 9, 2015, DIUC initiated this matter by filing its Application for Approval of Adjustment for Water and Sewer Rates, Terms and Conditions (“the Application”). Filed pursuant to S.C. Code Ann. Section 58-5-240 and 10 S.C. Code Ann. Regs. 103-712.4.A and 103-512.4.A, the Application and requested rates were based upon 2014 test year data. The procedural history, the issues resolved to date, the matters addressed in the appeals, and the issues outstanding are all well documented in the record and in the opinions issued by the South Carolina Supreme Court in DIUC v. S.C. Office of Reg. Staff, 420 S.C. 305, 803 S.E.2d 280 (2017) and DIUC v. S.C. Office Reg. Staff, 427 S.C. 458, 832 S.E.2d 572 (2019), reh’g denied (Sept. 27, 2019).

Following the second appeal and remand, the Parties, having engaged in discussions to determine whether a settlement in this proceeding would be in their best interests and in the public interest, hereby stipulate to, agree to, and affirm the following terms for implementation of rates herein referred to as the 2021 Rates:

1. On August 17, 2020, each DIUC customer was provided by U.S. Mail and/or by electronic mail to those customers who have agreed to receive notice by electronic mail DIUC's Second Revised Notice of Filing in the format approved by the Clerk of the South Carolina Public Service Commission ("Commission"). No objections or requests to intervene were filed in response to the Second Revised Notice.
2. The 2021 Rates are designed and intended to generate \$2,267,714 of annual revenue for DIUC, as shown in the Settlement Rates and Revenues (Billing Analysis) attached hereto as Exhibit 1 and herein incorporated. These rates and charges become effective upon Order of the PSC accepting this Settlement Agreement and may be first billed by DIUC to its customers in the first bill issued by DIUC thereafter.
 - a. The Parties agree to present this Settlement Agreement to the Commission for approval as soon as is practical, jointly requesting expedited review and a decision of the Commission by Order prior to March 1, 2021, that provides DIUC may implement the 2021 Rates for services beginning March 1, 2021, and DIUC may include the same in its April 1, 2021, quarterly billing.
 - b. The Parties agree to submit a Joint Proposed Order.
3. The Parties reserve their rights to review and make recommendations regarding the return of all customer funds that have accrued to DIUC as a result of the Tax Cuts and Jobs Act in a subsequent proceeding.
4. Based on a 2014 test year analysis, the resultant operating experience is illustrated and shown on the Operating Statement (Water and Wastewater Combined) attached hereto as Exhibit 2 and herein incorporated.
5. This Settlement Agreement results in rates for water and wastewater service that are just and reasonable and will allow the Company the opportunity to earn a reasonable return on the basis of its 2014 rate application.
6. In addition to the \$272,382 of rate case expenses previously recommended for recovery by ORS, approved by the Commission in Order No. 2018-68, and currently reflected in rates charged to customers, the Parties agree to recovery of \$542,978 for Guastella Associates'

rate case expenses incurred by DIUC through September 30, 2017, and supplemental legal rate case expenses of \$95,430.00, with both amounts to be amortized over a three (3) year period. DIUC has incurred additional rate case expenses, both Guastella Associates' rate case expenses and legal rate case expenses, in conjunction with this rate proceeding. DIUC will delay seeking recovery of these additional rate case expenses not included in this settlement until its next rate filing, and the Parties agree to reserve their positions as to DIUC's recovery of these additional rate case expenses for consideration in DIUC's next rate case.

7. DIUC's Application included \$8,139,260 of reported used and useful facilities included in Utility Plant in Service. Commission Orders 2015-846 and 2018-68 both reduced that amount by \$699,361. The inclusion of \$542,978 for Guastella Associates' rate case expenses along with the additional legal rate case expenses, related minor, and fall-out adjustments generates \$2,267,714 of annual revenue for DIUC in DIUC's 2021 Rates. As shown in the Second Revised Notice of Filing the rates most recently noticed to DIUC customers indicated annual revenue of \$2,267,722. Including the \$699,361 in Utility Plant In Service would result in rates that exceed the noticed revenue of \$2,267,722. Therefore, DIUC will delay seeking recovery of the corresponding \$699,361 until its next rate filing, and the Parties agree to reserve their positions as to the \$699,361 reduction to Utility Plant in Service for consideration in DIUC's next rate case.
 - a. The Parties, all of them and each of them, specifically reserve their rights, positions, arguments, and testimony related to this issue. Neither the previous orders entered in this matter regarding the \$699,361 reduction to Utility Plant in Service nor this Settlement Agreement shall serve to collaterally estop or bind the Parties as to that issue and neither shall be construed as a waiver or any indication of the strength or weakness of any Party's position(s) as to this issue.
8. DIUC asserts the temporary rates permitted by Order 2015-846's rate increase of 43%, which was mitigated but not corrected by Order 2018-68's further changes permitting a rate increase of 88.5%, were confiscatory. DIUC seeks reparations to recoup through a surcharge its shortfall in revenues and return with interest accumulating until the surcharge becomes effective, back to its January 2018 billing for service provided for the last quarter

of 2017, until its first billing following a final decision on the recoupment issue. DIUC also seeks reparations to recoup through a surcharge the credit/refund made in its January 2018 billing for the difference between the 88.5% increase and the 108.9% increase that had been in effect during the first appeal with interest accumulating until the surcharge becomes effective. ORS and the Intervenors disagree. ORS asserts that because DIUC chose not to put its requested (applied for) rates into effect under bond pending resolution of the second appeal, it cannot collect revenues from its customers going forward which it claims to have lost as a result of its decision to not post a bond while the current appeal was pending. Moreover, ORS also asserts that DIUC is prohibited from charging its customers any interest on any alleged lost revenues because rate-making is a prospective rather than a retroactive process. It is ORS's position that retroactive ratemaking is prohibited based on the principle that customers who use service provided by a utility should pay for its production rather than requiring future customers to pay for past use. S.C. Elec. & Gas Co. v. Pub. Serv. Comm'n, 275 S.C. 487, 272 S.E.2d 793 (1980).

- a. By way of compromise, the Parties jointly request the Commission adopt and implement DIUC's 2021 Rates then allow the Parties to present their positions regarding the reparations via written submissions. The Parties agree these issues may be decided on their respective submissions to Commission.
- b. After Commission approval of this Settlement Agreement and the issuance of an Order permitting implementation of the 2021 Rates, the Parties shall proceed to present their respective positions to the Commission regarding the DIUC request for reparations. In accordance with the South Carolina Administrative Procedures Act, DIUC shall provide in customary form notice to its customers of the same and an opportunity to be heard regarding the proposed surcharge. ORS, and any other party, has the right to comment on the Notice.
- c. The Parties agree their written submissions should be filed as follows:
 - i. DIUC submissions due 30 calendar days after it has provided notice and opportunity to be heard as outlined in Paragraph 8(b) above;
 - ii. ORS and Intervenors submissions due 21 calendar days after filing of DIUC submissions; and

- iii. DIUC Reply submissions due 10 calendar days after filing of ORS and Intervenor submissions.
 - d. Should the Commission issue an Order approving DIUC's proposed method of reparations and timing of billing surcharges, DIUC shall submit the calculation of the amount of the surcharges to individual customers for review by ORS. If there is a dispute as to the amount of the surcharges and their implementation, the Parties agree to proceed expeditiously to an evidentiary hearing to determine the appropriate amount of surcharges.
 - e. The Parties, all of them and each of them, specifically reserve their rights, positions, arguments, and previous testimony related to these issues. This Settlement Agreement shall not be construed as a waiver or any indication of the strength or weakness of any Party's position(s) as to these issues.
 - f. The Parties agree that this proceeding, Docket No. 2014-346-WS, will remain open until the issue discussed above in Paragraph 8 herein is fully adjudicated, including any appeals and final order(s) on remand, if necessary. The Parties reserve their right to appeal the Commission's decision regarding this issue.
9. The Parties agree that this Settlement Agreement does not constrain, inhibit, or impair in any way the arguments or positions they may choose to assert in future proceedings except as to the specific matters resolved herein, nor will the Settlement Agreement or any of the matters agreed to in it be used as evidence or precedent in any future proceeding.
10. The Parties agree this Settlement Agreement is reasonable, in the public interest, and in accordance with law and regulatory policy. Further, ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code Ann. § 58-4-10(B) (Supp. 2018). S.C. Code Ann. § 58-4-10(B) reads in part as follows:
- . . . 'public interest' means the concerns of the using and consuming public with respect to public utility services, regardless of the class of customer and preservation of continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes this Settlement Agreement reached among the Parties serves the public interest as defined above.


11. This Agreement is subject to and conditioned upon adoption of the same by the Commission.
12. If the Commission should decline to approve this Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from this Settlement Agreement without penalty.
13. The Parties agree that nothing herein will preclude each party from advancing its respective positions in the event that the Commission does not approve this Settlement Agreement.
14. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.
15. Excluding the positions the Parties agree to preserve as more fully set forth in Paragraph 8, the Parties agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission as a fair and reasonable resolution of the issues herein stated and the Parties agree not to take any action inconsistent with its adoption by the Commission.
16. This Settlement Agreement shall be interpreted according to South Carolina law.
17. Each Party acknowledges its consent and agreement to this Settlement Agreement by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of this Settlement Agreement. Electronic and/or facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages

combined with the body of the document constituting an original and provable copy of this Settlement Agreement.

18. This Settlement Agreement shall bind and inure to the benefit of each of the signatories hereto and their representatives, predecessors, successors, assigns, agents, shareholders, officers, directors (in their individual and representative capacities), subsidiaries, affiliates, parent corporations, if any, joint ventures, heirs, executors, administrators, trustees, and attorneys.

WE AGREE.

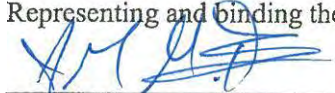
Representing and binding Daufuskie Island Utility Company, Inc.


Thomas P. Gressette, Jr.
G. Trenholm Walker

2-18-21
Date

WE AGREE.

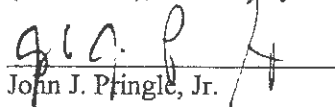
Representing and binding the Office of Regulatory Staff of South Carolina


Jeffrey M. Nelson
Andrew Bateman

2/18/21
Date

WE AGREE.

Representing and binding Haig Point Club and Community Association, Inc. ("HPCCA"), Melrose Property Owner's Association, Inc. ("MPOA"), and Bloody Point Property Owner's Association ("BPPOA"), collectively referred to as the "POAs" or "Intervenors"


John J. Pringle, Jr.
John Beach

2/18/21
Date

Exhibit 1, Settlement Rates and Revenues (Billing Analysis)

Docket No. 2014-346-WS

Daufuskie Island Utility Company, Inc.

Settlement Rates and Revenues (Billing Analysis)

WATER						
Customer	Classification	Consumption	Usage Charge	Units	Base Charge	Revenue
Haig Point-Residential	3/4" Meter			1,061	\$155.88	\$165,389
	0 to 22,500 gals.	8,360,179	\$4.47			\$37,370
	Over 22,500 gals.	3,192,728	\$4.47			\$14,271
Haig Point-Irrigation				727		
	0 to 18,000 gals.	8,367,838	\$4.91			\$41,086
	18,001 to 60,000 gals.	9,829,270	\$5.80			\$57,010
Melrose-Residential	Over 60,000 gals.	10,049,342	\$6.69			\$67,230
	3/4" Meter			452	\$155.88	\$70,458
	0 to 22,500 gals.	4,105,940	\$4.47			\$18,354
Melrose-Irrigation	Over 22,500 gals.	2,177,808	\$4.47			\$9,735
				100		
	0 to 18,000 gals.	1,368,330	\$4.91			\$6,719
Haig Point-Commercial	18,001 to 60,000 gals.	2,002,230	\$5.80			\$11,613
	Over 60,000 gals.	2,986,298	\$6.69			\$19,978
	Metered			106	\$218.23	\$23,132
Melrose-Commercial	0 to 22,500 gals.	2,413,190	\$4.47			\$10,787
	Over 22,500 gals.	2,132,690	\$4.47			\$9,533
	Metered			329	\$218.23	\$71,798
	0 to 22,500 gals.	1,752,659	\$4.47			\$7,834
	Over 22,500 gals.	2,544,703	\$4.47			\$11,375
Water Service Total		61,283,205		2,775		\$653,671
SEWER						
Customer	Classification	Consumption	Usage Charge	Units	Base Charge	Revenue
Haig Point-Residential	3/4" Meter			1,061	\$226.37	\$240,179
	0 to 22,500 gals.	8,360,179	\$2.41			\$20,148
	Over 22,500 gals.	3,192,728	\$2.41			\$7,694
Melrose-Residential	3/4" Meter			448	\$226.37	\$101,414
	0 to 22,500 gals.	3,926,008	\$2.41			\$9,462
	Over 22,500 gals.	2,296,390	\$2.41			\$5,534
Haig Point-Commercial	Metered			102	\$316.91	\$32,325
	0 to 22,500 gals.	2,362,530	\$2.41			\$5,694
	Over 22,500 gals.	2,132,690	\$2.41			\$5,140
Melrose-Commercial	Metered			329	\$316.91	\$104,263
	0 to 22,500 gals.	1,559,487	\$2.41			\$3,758
	Over 22,500 gals.	2,436,565	\$2.41			\$5,872
Water Service Total		26,266,577		1,940		\$541,483
REVENUE SUMMARY:						
Total Residential Water and Sewer Service Revenues						\$700,007
Total Commercial Water and Sewer Service Revenues						\$291,512
Total Irrigation Service Revenues						\$203,636
Total Water and Sewer Service Revenues						\$1,195,154
Availability Billing-Water						
Haig Point				1,917	\$112.23	\$215,145
Melrose				1,617	\$112.23	\$181,476
Bloody Point				368	\$112.23	\$41,301
Availability Billing-Sewer						
Haig Point				1,917	\$146.01	\$279,901
Melrose				1,617	\$146.01	\$236,098
Bloody Point				368	\$146.01	\$53,732
Total Water and Sewer Availability Revenues						\$1,007,652
Total Misc. Other Revenue						\$64,907
Total Operating Revenue						<u>\$2,267,714</u>

Exhibit 2, Operating Statement (Water and Wastewater Combined)

Docket No. 2014-346-WS

Daufuskie Island Utility Company, Inc.

Operating Statement Water and Wastewater Combined

	Settlement Rates
Total Operating Revenues	\$ 2,267,714
Operating Expenses:	
Wages	176,590
Benefits	6,200
Director's Fees	16,500
Sludge Disposal	-
Power	130,181
Chemicals	9,020
Supplies & Maintenance	27,116
Outside Services-Mgmt	171,365
Outside Services-Engineering	10,137
Outside Services-Accounting	2,761
Outside Services-Legal	23,178
Outside Services-Testing	92,288
Outside Services-Other	38,621
Other Operating Expenses	-
Transportation	2,450
Bad Debt	222,629
Insurance	38,913
Regulatory Commission Expense	15,636
Other A&G Expenses	36,438
Accepted ORS Adjustment	(46,033)
Partial Post 9-30-2017 Legal Fees (3 Year Amortization)	31,810
Total O&M Expense	1,005,801
Depreciation	82,560
Amortization of Rate Case Exp	271,787
Amortization of Deferred Property Tax	65,855
Revenue Taxes	19,425
Property Taxes	192,302
Payroll Taxes	13,212
State and Federal Income Taxes	176,575
Total Operating Expenses	1,827,517
Net Operating Income	\$ 440,197
Rate Base	\$ 5,900,924
Rate of Return	7.46%
Interest Expense	143,392
Operating Margin	13.1%